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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/543,085	01/03/2007	Paolo Rossin	163-651	1163
47888	7590	12/07/2007		
HEDMAN & COSTIGAN P.C. 1185 AVENUE OF THE AMERICAS NEW YORK, NY 10036			EXAMINER DANG, HUNG XUAN	
			ART UNIT 2873	PAPER NUMBER
			MAIL DATE 12/07/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/543,085

Applicant(s)

ROSSIN, PAOLO

Examiner

Hung X. Dang

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2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

Information Disclosure Statement

1. The prior art documents submitted by applicant in the Information disclosure Statements filed on 7/21/05 has been considered and made of record (noted attached copy of form PTO-1449).

Claims Objection

2. Claims 8 and 9 are objected to under 37 CFR 1.75(c), as being of improper dependent form. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claims 8 and 9 cannot depend on one or more of claims from 1-6.

Claims Rejection Under 35 USC - 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5-9 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by **Sunatori** (Canada CA 2,321,318 in IDS).

Sunatori discloses magnetic coupling system for securing a temple to an eyeglass hinge comprise a lens supporting structure (3-0) and two temples (4-0) each connected laterally to said lens supporting structure (3-0) by means of a hinge device,

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characterized in that said hinge device comprises a first magnetic element (3-3) applied integral with said lens supporting structure (3-0) and a second magnetic element (4-1) applied integral with said temples (4-0), said first and said second magnetic element (3-3, 4-1) being engaged with each other to allow relative movement between said temples (4-0) and said lens supporting structure (3-0), the first and second magnetic elements overlap each other (in one direction at least), the magnetic element 3-3 is held on a perimetric portion (see figure 3) with a lateral extension of the structure 3-2, the shape of the magnetic element 4-1 is cylindrical (page 2 of description), and engages slidably with the complementary shape of magnetic element 3-3, seen from above the magnetic elements are side by side, the magnetic element 4-1 has a circular perimetric portion and the magnetic element 3-3 has a corresponding, complementary perimetric seat, The structure of D1 is provided with laterally arranged magnetic elements 3-3, engaging with magnetic elements 4-1, that are integral with the temples, the temple of D1 has a magnetic element, designed to be complementary and to engage with a magnetic element 3-3 (see figure 3) (see figures 2-5 and the related disclosure.)

Claims Rejection Under 35 USC - 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains.

Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Sunatori** (Canada CA 2,321,318 in IDS).

Sunatori discloses magnetic coupling system for securing a temple to an eyeglass hinge comprise a lens supporting structure (3-0) and two temples (4-0) each connected laterally to said lens supporting structure (3-0) by means of a hinge device, characterized in that said hinge device comprises a first magnetic element (3-3) applied integral with said lens supporting structure (3-0) and a second magnetic element (4-1) applied integral with said temples (4-0), said first and said second magnetic element (3-3, 4-1) being engaged with each other to allow relative movement between said temples (4-0) and said lens supporting structure (3-0), the first and second magnetic elements overlap each other (in one direction at least), the magnetic element 3-3 is held on a perimetric portion (see figure 3) with a lateral extension of the structure 3-2, the shape of the magnetic element 4-1 is cylindrical (page 2 of description), and engages slidingly with the complementary shape of magnetic element 3-3, seen from above the magnetic elements are side by side, the magnetic element 4-1 has a circular perimetric portion and the magnetic element 3-3 has a corresponding, complementary perimetric seat, The structure of D1 is provided with laterally arranged magnetic elements 3-3, engaging with magnetic elements 4-1, that are integral with the temples, the temple of D1 has a magnetic element, designed to be complementary and to engage with a magnetic element 3-3 (see figure 3) (see figures 2-5 and the related disclosure.)

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Sunatori discloses the claimed invention excepted for a pin. It would have been obvious to one having ordinary skill in the art at the time the invention was made to a pin. Since it has been held that omission of an element and its function in a combination where the remaining elements perform the same functions as before involves only routine skill in the art. In re Karlson, 136 USPQ 184

5. Any inquiry concerning this communication should be directed to Examiner Dang at telephone number (571) 272-2326.

12/07

A handwritten signature in black ink, appearing to read 'Hung Dang', with a stylized, cursive script.

HUNG DANG

PRIMARY EXAMINER

TC 2800